



**NEW YORK CITY HOUSING AUTHORITY
LAW DEPARTMENT**
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June 24, 2008

By Fax (212-805-7900)
The Honorable Kimba M. Wood
Chief United States District Judge
Southern District of New York
500 Pearl Street, Room 1610
New York, New York 10007

MEMO ENDORSED

Re: *Gerard O'Neill v. Tino Hernandez, et al.*, 08 CV 1689 (KMW)
Permission to submit a sur-reply to respond to plaintiff's "Sampling of an Amended Complaint"

Dear Chief Judge Wood:

I am an attorney with the New York City Housing Authority (NYCHA) Law Department, and I represent the defendants in the above-referenced matter. Pending before the Court are defendants' motion to dismiss the complaint and plaintiff's motion for a remand, motion to amend the complaint and motion for a temporary restraining order. Defendants' reply papers are due June 27. I write to request permission to submit a sur-reply to respond to plaintiff's "Sampling of an Amended Complaint," included as part of his June 13 reply papers in further support of his motion to amend the complaint. Defendants have not had any opportunity heretofore to respond to plaintiff's Sampling of an Amended Complaint. The combined length of defendants' reply/sur-reply memorandum of law will not exceed 20 pages.

On June 13, 2008, defendants received a spiral-bound set of papers from plaintiff consisting of a "Sampling of an Amended Complaint," "Plaintiff's Reply to Defendants' Memorandum of Law (Dated 05/08/08) to Dismiss the Plaintiff's Complaint," and numerous documents. Among other things, plaintiff seeks to add numerous NYCHA and non-NYCHA parties to this action and purports to advance new Federal claims, including the denial of due process and equal protection and the violation of rights under the Fourth, Fifth and Eighth Amendments and Title III of the Americans With Disabilities Act, as well as numerous State law claims sounding in fraud, negligent and intentional misrepresentation, fraud on the court, malicious prosecution, assault, intentional and negligent infliction of emotional distress and invasion of privacy.

Thank you for your consideration of this request.

Defendants' request is denied and Defendants are referred to the Court's June 24, 2008 Order. Plaintiff may file an amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(1). Defendants may respond as set forth in the Court's June 24, 2008 Order.

Respectfully,
Jeffrey Niederhoffer (JN 1942)

SO ORDERED, N.Y., N.Y.

c: Gerard O'Neill (by first class mail)

KIMBA M. WOOD
U.S.D.J.

Denied
KMW

6-24-08